

**REMARKS:**

Claims 6-10 and 36-42 are pending in the present application.

In the Office Action dated October 23, 2003, the Examiner rejected claims 1-17 pursuant to 35 U.S.C. § 112, further rejected claim 1 pursuant to 35 U.S.C. § 102, and further rejected claims 1-17 pursuant to 35 U.S.C. § 103. In response, Applicants have cancelled claims 1-5 and 11-17, added claims 36-42, amended claim 6 to independent and definite form, and offered arguments in support of the allowability of claims 6-10 and 36-42. Because claims 1-5 and 11-17 have been cancelled, the rejections of these claims are moot and will not be addressed further in this Amendment.

First, the amendments to claim 6 were not only to amend the claim into independent form, but also to address the indefiniteness issues raised by the Examiner with respect to claim 1. Accordingly, Applicants submit that all 35 U.S.C. § 112 issues have been addressed and resolved.

Secondly, addressing the 35 U.S.C. § 103 rejections, the Examiner has rejected claims 6-10 as being obvious in light of the section of the present application entitled "Background of the Invention" (page 2, line 16 – page 4, line 1) and the portion of the present application describing the prior art (page 15, line 11 – page 16, line 4) (collectively referred to in the initial Office Action as "AAPA"), and U.S. Patent No. 4,827,114 issued to Blachon. To better present the arguments against these rejections of claims 6-10 and in support of the allowability of claims 36-42, Applicants believe it to be beneficial to briefly review the embodiment of the present invention described in these claims.

The present invention is a method of forming a bundle from a plurality of articles, each

article including product information or advertising information on one or more of its surfaces, along with an individual identification code on one surface. The method allows the articles in the bundle to be identified by avoiding completely visually obscuring the product information. The method also allows the individual identification codes of the articles in the bundle to be obscured to prevent an automated scanner from reading the individual identification codes and identifying the bundle as a single article.

The method achieves these results using two distinct films: (1) a first, substantially transparent film, and (2) a second film capable of obscuring identification codes. The method provides that these two films each are wrapped partially around the articles. Furthermore, the method provides that these two films are at least partially secured to one another to form a sleeve around the articles. The sleeve formed by the two films avoids completely visually obscuring the product information on the articles, while the second film obscures the individual identification codes on the articles, which may be achieved, for example, by making the second film dark colored, opaque, or patterned.

As the Examiner correctly states, the “AAPA discloses a method of forming a bundle from a plurality of adjacent articles in order to facilitate distribution efficiency.” Specifically, the AAPA describes a method of bundling articles “together using an externally-applied film\*\*\*[which] may be provided in the form of an open ended sleeve.” (Page 15, lines 11-15). The AAPA also describes wrapping this single film around the articles and the possibility of subjecting the film to a shrinking process to form the bundle. (Page 16, lines 10-12). However, contrary to the Examiner’s remarks in the initial Office Action (Page 7, ¶ 9), the AAPA provides absolutely no teaching with respect to using two distinct films in a method of bundling articles,

wherein one film is substantially transparent and the second film is capable of obscuring an identification code. Additionally, the AAPA provides no teaching of a bundling method wherein each film is partially wrapped around the articles being bundled. Moreover, the AAPA fails to disclose or suggest at least partially securing the second film to the first film to form a sleeve. Finally, the AAPA neither teaches nor suggests using two films, wherein one of the films is capable of obscuring an identification code.

U.S. Patent No. 4,827,114 to Blachon describes a process for bundling individual products using a single film, covered with a printed pattern, such that the individual identification codes are obscured. Similar to the AAPA describe above, however, the '114 Patent fails to teach or suggest the use of two distinct films in a method of bundling articles, the partial wrapping of each film around the articles being bundled, and securing the first film to the second film to form a sleeve.

Regardless of the propriety of combining the above-described prior art references, "the prior art references (or references when combined) must teach or suggest all of the claims limitations." MPEP § 706.02(j) (emphasis added). As should become clear from the preceding discussion, while the AAPA describes a method of bundling articles, it does not consider a method of bundling articles using two distinct films, one if which is capable of obscuring individual identification codes. Similarly, the '114 Patent only describes the use of a single film. Indeed, the '114 Patent describes a single film having at least two distinct portions: one with a printed pattern and another devoid of the printed pattern (Column 3, lines 5-7 and 52-57). The inclusion of two portions within a single film actually teaches away from the use of two separate and distinct films.

Referring now to the pending independent claims of the present application, claim 6 (as amended) recites:

6. A method of forming a single, separately identifiable bundle from a plurality of adjacently placed articles, each article bearing product information or advertising indicia on one or more surfaces thereof, while substantially obscuring the individual identification code on a surface of each of the articles in the bundle, thereby preventing an automated scanner from fully reading the individual identification codes, comprising the steps of:

arranging and at least partially wrapping the articles to form the bundles such that the product information or advertising indicia on at least one article is at least partially viewable while substantially obscuring the individual identification codes on each of the articles, wherein the wrapping step includes placing a first film only partially around the plurality of articles and the obscuring is accomplished by wrapping a second dark-colored, opaque, or patterned film only partially around the plurality of articles; and

at least partially securing the second film to the first film to form a sleeve around the articles, whereby the articles in the bundle may be identified from the product information or advertising indicia on the at least one article, but the obscuring prevents the automated scanner from reading the individual identification codes and identifying the bundle as a single article.

Claim 6 clearly requires two distinct films, reciting that “the wrapping step includes placing a first film only partially around the plurality of articles and the obscuring is accomplished by wrapping a second dark-colored, opaque, or patterned film only partially around the plurality of articles....” Furthermore, claim 6 further describes the relationship between the first and second films, requiring “at least partially securing the

second film to the first film to form a sleeve around the articles....” Neither the AAPA, nor Blachon, individually or in combination, teach or suggest the use of two distinct films in this manner. Thus, regardless of the propriety of combining the references, the obviousness rejection is improper and should be withdrawn.

Claims 7-10 depend from claim 6 and are each believed to be allowable in light of the argument set forth above with respect to claim 6. Furthermore, to address the 35 U.S.C. § 112 issue raised by the Examiner with respect to claim 10, claim 10 has been amended to clarify that the bundle identification code is applied to the sleeve around the articles, and thus is applied after the wrapping of the bundle has been completed.

Claim 36 was added the present application by this amendment and recites:

36. A method of forming a single, separately identifiable bundle from a plurality of adjacent articles, while substantially obscuring an individual identification code on a surface of each of the articles, thereby preventing an automated scanner from fully reading the individual identification codes, comprising the steps of:

placing a first film at least partially over the group of articles, the first film at least partially exposing at least one surface of one of the articles for viewing;

placing a second film at least partially over the group of articles, the second film substantially obscuring the identification code on another surface of each article;

at least partially securing the first film to the second film on at least two sides of the group of articles to form a sleeve; and

shrinking the sleeve to form the bundle.

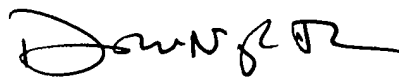
Again, neither the AAPA, nor Blachon, individually or in combination, teach or suggest

the use of two distinct films in this manner, and therefore, claim 36 is also believed to be allowable over the cited prior art references.

Claims 37-42 depend from claim 36 and are each believed to be allowable in light of the argument set forth above with respect to claim 36. Additionally, the dependent claims include further limitations related to the application and placement of the first and second films, limitations that are clearly neither taught nor suggested by the cited prior art references.

In light of the foregoing amendments and remarks, Applicants respectfully request allowance of all claims now pending in this Application.

Respectfully submitted,



David W. Nagle, Reg. No. 42,923  
Mandy V. Wilson, Reg. No. 53,781  
**STITES & HARBISON, PLLC**  
400 W. Market Street  
Louisville, Kentucky 40202-3352  
Phone (502) 587-3400  
Facsimile (502) 587-6391